



# Glasgow Commonwealth Games Act 2008

## 2008 asp 4

### *Enforcement*

#### **21 Enforcement officers**

- (1) “Enforcement officers” are individuals designated as such by the Organising Committee.
- (2) The Organising Committee may designate an individual as an enforcement officer only if the individual—
  - (a) is an inspector of weights and measures (appointed under section 72(1) of the Weights and Measures Act 1985 (c. 72)) and the designation is approved by the appointing council, or
  - (b) meets such other criteria as may be specified by Ministers in regulations.
- (3) Enforcement officers have the functions conferred on them by virtue of this Act.

#### **22 General enforcement power**

- (1) An enforcement officer may take such reasonable steps as the officer considers appropriate—
  - (a) for the purpose of preventing or ending the commission of a Games offence, or
  - (b) in connection with proceedings, or anticipated proceedings, in respect of a Games offence.
- (2) Such steps may include seizing, concealing or destroying anything which the officer reasonably believes to be an infringing article (but see section 23).
- (3) An “infringing article” is—
  - (a) an article used in connection with the commission of a Games offence, or
  - (b) a receptacle used as a container for such an article.
- (4) An enforcement officer may be assisted by any other person as may be reasonably required for the purposes of taking action under this section.

**23 Restrictions on general enforcement power**

- (1) An infringing article may be seized by an enforcement officer only if the officer considers it appropriate to do so for the purpose of—
  - (a) ending the commission of a Games offence,
  - (b) preventing the future commission of such an offence,
  - (c) enabling the article to be used in proceedings for such an offence, or
  - (d) enabling the article to be forfeited in accordance with Part 2 of the Proceeds of Crime (Scotland) Act 1995 (c. 43).
- (2) A seized article must be returned when retention of it is no longer justified for the purposes mentioned in subsection (1).

This subsection does not apply to perishable articles which no longer have any commercial value.
- (3) An infringing article may be concealed by an enforcement officer only if the officer considers it appropriate to do so for the purpose of—
  - (a) ending the commission of an advertising offence, or
  - (b) preventing the future commission of such an offence.
- (4) A concealed article must be revealed when concealing it is no longer justified for the purposes mentioned in subsection (3).
- (5) An infringing article may be destroyed only if the enforcement officer considers it appropriate to do so for the purposes mentioned in subsection (3) and does not consider seizing or concealing the article to be a reasonable alternative course of action in the circumstances.

**24 Power to enter and search**

- (1) An enforcement officer may, without warrant, enter any place and may search any place (and any vehicle, vessel, container or other thing at that place)—
  - (a) where the officer reasonably believes a Games offence has been or is being committed, or
  - (b) which the officer reasonably believes has been or is being used in connection with a Games offence.
- (2) An enforcement officer may take to a place entered by virtue of this section any other person, or any equipment, as may be reasonably required for the purposes of assisting the officer.
- (3) An enforcement officer who enters a place in pursuance of this section must take reasonable steps to leave the place at least as effectively secured against unauthorised entry as the officer found it.

**25 Use of reasonable force**

- (1) An enforcement officer may use, or authorise the use of, reasonable force when taking action under section 22 or 24—
  - (a) if the sheriff grants a warrant for the use of reasonable force and the officer is accompanied by a constable, or

- (b) where no application for a warrant has been made, only if the officer is accompanied by a constable who reasonably believes that there is a real and substantial risk that delay in seeking a warrant would defeat or prejudice the purpose of taking action.
- (2) Despite subsection (1), an enforcement officer must not—
  - (a) use force against an individual, or
  - (b) authorise another person to use force against an individual.
- (3) The sheriff may grant a warrant under this section on the application of an enforcement officer only if satisfied that the use of reasonable force is necessary for the purpose of taking action under section 22 or 24.
- (4) A warrant granted under this section expires—
  - (a) when it is no longer required for the purpose for which it was granted, or
  - (b) if earlier, on the expiry of such period as may be specified in it.

## **26 Further restrictions on entering houses**

- (1) An enforcement officer may take action under section 22 or 24 in relation to a house or a place that can be entered only through a house only if—
  - (a) an individual who habitually resides in the house permits the enforcement officer to do so, or
  - (b) the sheriff grants a warrant for such action.
- (2) An enforcement officer may enter a house only—
  - (a) at reasonable times, and
  - (b) if accompanied by a constable.
- (3) The sheriff may grant a warrant under this section on the application of an enforcement officer only if satisfied—
  - (a) that the officer has reasonable grounds for taking action under section 22 or 24 in relation to the house or the place that can be entered only through the house, and
  - (b) that any of the conditions in subsection (4) is met.
- (4) Those conditions are—
  - (a) that the officer has been refused entry to the house or place or has been prevented from taking any other action under section 22 or 24 in relation to the house or place,
  - (b) that such a refusal or prevention is reasonably expected (after the officer has taken reasonable steps to notify the residents of the house of the intended action),
  - (c) that—
    - (i) the house is unoccupied (permanently or temporarily), and
    - (ii) the officer has taken reasonable steps to notify any residents of the house of the intended action,
  - (d) that the case is one of urgency, or
  - (e) that notifying the residents of the house of the officer's intention to take action would defeat the object of the proposed action.
- (5) A warrant granted under this section expires—

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*Status: This is the original version (as it was originally enacted).*

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- (a) when it is no longer required for the purpose for which it was granted, or
- (b) if earlier, on the expiry of such period as may be specified in it.

## **27 Power to obtain information**

- (1) An enforcement officer may require any person to provide such information as the officer considers appropriate in connection with—
  - (a) a Games offence, or
  - (b) conduct which the officer reasonably suspects constitutes a Games offence.
- (2) A person is not obliged to provide information under this section if the person would be entitled to refuse to provide the information in, or for the purposes of, court proceedings.

## **28 Requirement to produce authority**

An enforcement officer must, while doing anything under section 22, 24 or 27, produce evidence of the officer's authority to take action if requested to do so.

## **29 Test purchases**

- (1) An enforcement officer may, for the purpose of discovering whether any provision made by virtue of this Act is being complied with—
  - (a) purchase, or authorise another person to purchase, any goods, or
  - (b) secure, or authorise another person to secure, the provision of any services.
- (2) Nothing done in pursuance of this section constitutes a Games offence.

## **30 Compensation and recovery of costs**

- (1) A person whose property is damaged by anything done under section 22 or 24 may obtain compensation from—
  - (a) if the damage is caused by an enforcement officer or by a constable accompanying an enforcement officer, the Organising Committee, or
  - (b) if the damage is caused by a constable who is not accompanying an enforcement officer, the chief constable of the constable's police force.

This subsection does not apply if the thing done relates to a Games offence committed by the person.

- (2) Ministers may by regulations make provision—
  - (a) about claiming compensation,
  - (b) about determining the compensation due, and
  - (c) conferring jurisdiction for determining disputed compensation on a court, tribunal or other body.
- (3) The costs of doing anything which an enforcement officer is authorised or entitled to do by virtue of this Act are recoverable by the Organising Committee from the person who committed the Games offence to which the action relates.

### **31 Obstructing an enforcement officer**

It is an offence (“an obstruction offence”)—

- (a) intentionally to prevent or obstruct an enforcement officer from doing anything which the officer is authorised or entitled to do by virtue of this Act, or
- (b) without reasonable cause to fail to comply with a requirement made by an enforcement officer, or a constable, under section 27.

### **32 Police powers**

- (1) A constable may do anything an enforcement officer may do under sections 22 to 29.
- (2) But the restrictions imposed on an enforcement officer by sections 23, 25, 26 and 28 apply to a constable only to the extent that they do not conflict with a constable’s powers under any other enactment or rule of law.

And where the restrictions imposed by sections 25 and 26 apply, the constable does not have to be accompanied by another constable.

- (3) A constable may arrest without warrant a person who the constable reasonably believes is committing or has committed a Games offence.
- (4) Subsection (3) does not affect a constable’s existing powers of arrest.

### **33 Action under sections 22 to 29: procedure**

Ministers may by regulations specify further procedure which an enforcement officer or, as the case may be, a constable must follow when doing anything under sections 22 to 29.